



**State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES**

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095  
(603) 271-2147 FAX (603) 271-6588



David S. Mattil  
204 County Road  
PO Box 23  
Greenfield, NH 03047

Re: Dunbarton, New Hampshire  
File # 2003-1437

**ADMINISTRATIVE ORDER  
No. WD 04-16**

August 12, 2004

**A. INTRODUCTION**

This Administrative Order is issued by the Department of Environmental Services, Water Division to David S. Mattil pursuant to RSA 483-B. This Administrative Order is effective upon issuance.

**B. PARTIES**

1. The Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, NH 03301.
2. David S. Mattil is an individual having a mailing address of 204 County Road, PO Box 23 Greenfield, NH 03047.

**C. STATEMENTS OF FACTS AND LAW**

1. Pursuant to RSA 483-B, the Comprehensive Shoreland Protection Act ("CSPA"), the Department of Environmental Services ("DES") regulates development activities in the protected shoreland zone established under the CSPA. Pursuant to RSA 483-B:17, the Commissioner of DES has adopted Env-Ws 1400 to implement this program.
2. David S. Mattil is the owner of a parcel of land located on the southeastern shore of Gorham Pond in Dunbarton, NH, more particularly identified on Town of Dunbarton Tax Map B3 as Lot 01-01 ("the Property").
- 3 On July 9, 2003, DES personnel inspected the Property and observed the following
  - a. Within an area measuring 150' along the frontage on Gorham Pond by 150' deep measured from the lake reference line, a total of 57 fresh tree stumps were documented. Within this area, only 3 trees remained. Additionally, a total of 33 sapling stumps were counted. No saplings remained within the grid area.

4. RSA 483-B:9,V(a)(2)(A) requires that "[n]ot more than a maximum of 50 percent of the basal area of trees, and a maximum of 50 percent of the total number of saplings shall be removed for any purpose within a 20-year period. A healthy, well-distributed stand of trees, saplings, shrubs and ground covers and their living, undamaged root systems shall be left in place."
5. DES issued Letter of Deficiency #SP-2003-13 ("the LOD") to David Mattil on July 15, 2003, informing him that the clear-cutting violated RSA 483-B and requesting that he submit a restoration plan to DES within 30 days of receipt of the LOD.
6. On February 2, 2004, DES sent Mr. Mattil a follow-up letter informing him that DES may pursue further enforcement action if he did not respond to the LOD within 5 working days of receipt of the letter. The letter was received on February 5, 2004, as is evidenced by a signed postal receipt.
7. To date, DES has not received a restoration plan from David Mattil.

#### **D. DETERMINATION OF VIOLATIONS**

1. David S. Mattil violated RSA 483-B:9,V(a)(2)(A) by removing more than 50 percent of the basal area of trees and more than 50 percent of the total number of saplings from the protected shoreland zone on the Property.
2. David S. Mattil violated RSA 483-B:9,V(a)(2)(A) by failing to maintain a healthy, well-distributed stand of trees, saplings, shrubs and ground covers and their living, undamaged root systems within the natural woodland buffer.

#### **E. ORDER**

Based on the above findings, DES hereby orders David S. Mattil as follows:

1. Within 30 days of the date of this Order, submit a restoration plan to DES for review and approval. The restoration plan shall include the following:
  - a. A plan with dimensions, drawn to scale, showing:
    - i. existing conditions; and
    - ii. proposed conditions once restoration is completed;
  - b. A detailed description of the proposed means of erosion and sedimentation controls and stabilization of the restoration area;
  - c. A detailed description of the proposed planting plan for the stabilization and revegetation of the restoration area. A plantings plan showing the number, species, and location of proposed plantings. Saplings shall be no less than 6 feet in height, and all plantings shall be selected from the list of New Hampshire native and naturalized species. Saplings should be proposed in areas where trees were removed;
  - d. A description of the proposed restoration sequence and methods for accomplishing the restoration, and timeframe for implementation, which shall begin on or about September 1, 2004.

2. Implement the restoration plan only after receiving written approval and as conditioned by DES. Restoration shall be completed no later than October 31, 2004.
3. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Allyson L. Gourley  
DES Water Division  
29 Hazen Drive  
PO Box 95  
Concord, NH 03302-0095  
Fax: (603) 271-6588  
e-mail: agourley@des.state.nh.us

#### F. APPEAL

Any person aggrieved by this Order may appeal the Order to the New Hampshire Water Council in accordance with RSA 483-B:14 and NH Administrative Rules Env-WC 200. Such appeal must be filed with the Council within 30 days of the date of this Order and must be addressed to Chairman, Water Council, 29 Hazen Drive, PO Box 95, Concord, NH 03302-0095. Copies of the rule are available from the DES Public Information Center at (603) 271-2975 or at <http://www.des.state.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve David S. Mattil of the obligation to comply with the Order.

#### G. OTHER PROVISIONS

Please note that RSA 483-B:18 provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. DES will continue to monitor David S. Mattil's compliance with applicable requirements and will take appropriate action if additional violations are discovered.

This Order is being recorded in the Merrimack County Registry of Deeds so as to run with the land.

  
Harry T. Stewart, P.E., Director  
Water Division

  
Michael P. Nolin, Commissioner  
Department of Environmental Services

Certified Mail/RRR: 7003 2260 0005 9209 9482

cc: Gretchen Hamel, DES Legal Unit ✓  
Public Information Officer, DES PIP Office  
Jennifer J. Patterson, Sr. Asst. Attorney General, NHDOJ/EPB  
Dunbarton Conservation Commission  
Dunbarton Board of Selectmen